IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 549 OF 2006

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : B.P. DHARMADHIKARI, J.
FEBRUARY 07, 2006.

Heard Shri Wadodkar, learned counsel for the petitioner – original defendant.

The order impugned is dated 14.12.2005 and by said order Civil Judge, Junior Division, Mul, has rejected application of petitioner – defendant, seeking permission to file document on record. The Suit is of the year 1992. The issues were framed and thereafter the respondent – plaintiff has already closed his evidence. It is in this background the Court below observed that the present petitioner i.e. defendant No.5 appeared in the year 1998 and the application does not give any reason as to why the document could not be filed at appropriate stage or even earlier. It also records that document is old and was in possession of the petitioner. It has found that if permission is granted, it will cause prejudice to the respondent – plaintiff.

The learned counsel for the petitioner seeks to rely upon the judgment of Delhi High Court in the case of Kirpal Chand and Ors. vs. Skipper Construction Co. Pvt. Ltd. & Ors., reported at AIR 2002 NOC 257 (Delhi). In the said judgment, it appears that though the application seeking permission to produce documents did not disclose any reason, the Court permitted production because the production was sought for only after settlement of issue i.e. before recording of evidence had begun. Thus, it found that there was no question of any prejudice to be caused to defendant by granting such permission. Here, the respondent – plaintiff has already entered the witness box and already closed his side and Court below has found that permission to produce document will prejudice him.

I, therefore, do not find any perversity or jurisdictional error in the order passed by the Court below. No case is made out for interference in writ petition. Writ Petition is, therefore, dismissed.

However, liberty to the petitioner to challenge said order before appellate forum after the judgment and decree is passed in Civil Suit.

JUDGE

*GS.